

Department of Public Health and
Human Services (DPHHS)

Health Insurance Portability and Accountability Act ("HIPAA") Privacy Policy

John Chappuis, Deputy Director

Date: February 27, 2003

Revised Date:

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| Policy Title: | Business Associate Agreements | | |
| Policy Number: | 015 | Version: | 1.0 |
| Approved By: | John Chappuis | | |
| Date Approved: | February 27, 2003 | | |

Purpose:

This policy addresses the agreements necessary to protect Protected Health Information ("PHI") that is entrusted to individuals and agencies contracted as Business Associates of DPHHS.

Policy:

Business Associates of DPHHS who require PHI to perform work related to DPHHS's role as a covered entity must have that role detailed in a Business Associate Agreement.

Definition:

Business Associate – A person or organization that performs a function on behalf of the DPHHS that requires the use or disclosure of PHI and relates to the health care component activities of DPHHS. Such functions include claims processing, utilization review, quality assurance, billing, benefits management, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services. Business associates do not include members of the DPHHS workforce.

1. DPHHS must evaluate its business arrangements to determine which ones meet the definition of Business Associate. Contracts or contract amendments will be generated with those business associates by April 14, 2004.
2. Business associate agreements must specify the uses and disclosures of PHI that DPHHS requires of the business associate. The agreement will assure that the business associate:
 - a. Will not use or further disclose the information other than as permitted by the contract or required by law;

- b. Will use appropriate safeguards to protect PHI;
 - c. Will report any use or disclosure not provided for in the agreement;
 - d. Will ensure that any agents or subcontractors used by the business associate will also apply the appropriate safeguards required by the business associate agreement;
 - e. Will provide a mechanism by which PHI is made available to the client for review, copying, or amendment and will make available the information necessary to account for these disclosures;
 - f. Will make its internal practices and records available to the Secretary of HHS for purposes of determining the compliance of DPHHS; and
 - g. At the termination of the contract, if feasible, return or destroy all PHI received from or created for DPHHS.
- 3. If DPHHS becomes aware of any practices of the business associate that constitute a material breach of the agreement, DPHHS must take steps to correct or end the violation. If such steps are unsuccessful, DPHHS must either terminate the contract or, if that is not feasible, report the problem to the Secretary of HHS.
 - 4. DPHHS is not required, however, to monitor the privacy practices of the business associate and is not liable for privacy breaches of the business associate.
 - 5. PHI disclosed to a business associate for purposes of treatment, payment, or healthcare operations do not require an accounting to the client.